

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 05, 2015
84th Legislature, Number 63
The House convenes at 10 a.m.
Part Two

Forty-five bills are on the daily calendar for second-reading consideration today. The bills analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.



Alma Allen
Chairman
84(R) - 63

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 05, 2015

84th Legislature, Number 63

Part 2

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SUBJECT: Enhancing penalties for prior possession, promotion of child pornography

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson
0 nays

WITNESSES: For — (*Registered, but did not testify*: William Squires, Bexar County District Attorney; Mandi Kimball, Children at Risk; Katherine McAnally, Hill Country Children's Advocacy Center; Pamela McPeters, Texas Association for the Protection of Children, TexProtects; Jeffrey Knoll)

Against — None

BACKGROUND: Penal Code, secs. 43.26(d) and (g) provide that the criminal penalty for possession of child pornography is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) and the criminal penalty for promotion of child pornography is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000), regardless of whether the individual has prior convictions of these offenses.

Under federal law, 18 U.S. Code sec. 2252(b), there is a graduated penalty structure for individuals convicted of transporting, receiving, distributing, or selling or possessing with intent to sell child pornography in interstate or foreign commerce. The criminal penalty for a first conviction is a fine and imprisonment between five and 20 years, and the penalty for an individual with a prior conviction is a fine and imprisonment between 15 and 40 years.

DIGEST: HB 2291 would amend the Penal Code to increase the criminal penalty for possession of child pornography from a third-degree felony to a second-degree felony if the defendant had one prior conviction of the offense, and to a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the defendant had two or more prior convictions of the offense.

The bill also would increase the criminal penalty for promoting or intending to promote child pornography from a second-degree felony to a first-degree felony if the defendant had a prior conviction of the offense.

This bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

SUBJECT: Repealing the bingo rental tax and the liquefied natural gas tax

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — D. Bonnen, Bohac, Button, Darby, Martinez Fischer, Murphy, Springer, C. Turner, Wray

1 nay — Y. Davis

1 absent — Parker

WITNESSES: For — None

Against — (*Registered, but did not testify*: Chris Frandsen)

On — (*Registered, but did not testify*: Karey Barton and Tom Currah, Texas Comptroller of Public Accounts)

BACKGROUND: Occupations Code, sec. 2001.501 imposes a tax on the rental of premises where bingo is conducted. The rate is 3 percent of the gross amount collected in rent.

Tax Code, ch. 162, subch. D governs provisions related to liquefied gas. Liquefied gas used to power motor vehicles is taxed at a rate of 15 cents per gallon.

DIGEST: CSHB 2212 would repeal the bingo rental tax by repealing Occupations Code, sec. 2001.501, and making conforming changes throughout the chapter.

CSHB 2212 also would repeal the tax on liquefied gas by repealing Tax Code, ch. 162, subch. D and amending other sections of the chapter. It would continue the exemption of liquefied gas from the sales tax by classifying it as a special fuel.

Cars owned by transit companies that were taxed under the provisions repealed by this bill would be exempted from the tax on the sale of natural

gas that was delivered to the fuel supply of the car, as long as the natural gas was provided by a fueling station not accessible to other cars.

This bill would allow holders of liquefied gas tax decals to apply to the comptroller for a refund of any unused portion of advanced taxes paid for the period after the effective date of the bill.

This bill would take effect September 1, 2015, and would not affect the status of any violations, offenses, or tax liability committed or accruing before that date.

**SUPPORTERS
SAY:**

CSHB 2212 would increase state revenue because both the bingo rental tax and liquefied gas tax impose an opportunity cost on the comptroller's resources. Resources now spent administering and enforcing these taxes would generate more revenue if redeployed to audit or enforcement activities for other taxes.

Additionally, these taxes impose various administrative costs on the consumers and businesses subject to them, which reduces market efficiency. All businesses pay taxes of some sort, and the tax system should strive to make its collections as efficient as possible. Consumers, small businesses, and the state would be better off eliminating these unnecessary taxes, which generate too little revenue to offset the administrative opportunity cost.

**OPPONENTS
SAY:**

CSHB 2212's elimination of these taxes would have a directly negative impact on revenue, and the state should not cut taxes when it faces needs in critical areas such as transportation and education.

In addition, this bill would eliminate a tax on the grounds that it did not bring in sufficient revenue to offset the time spent collecting it. However, a tax that is comparatively less cost effective to collect should not necessarily be eliminated. All businesses should pay their fair share of taxes because they benefit from the same systems of legal protections established and enforced by the state government.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 2212 would have a negative impact of about \$2.7 million on general revenue

related funds through the 2016-17 biennium.

SUBJECT: Changing truancy from class C misdemeanor to civil penalty

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White
0 nays

WITNESSES: For — Traci Berry, Goodwill Central Texas and Texas Association of Goodwills; Lauren Rose, Texans Care for Children; Mary Mergler, Texas Appleseed; John Kreager, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Matt Simpson, American Civil Liberties Union of Texas; Katherine Barillas, One Voice Texas; Bill Hammond, Texas Association of Business; Sarah Crockett, Texas CASA; Larriann Curtis, Texas PTA; Derek Cohen, Texas Public Policy Foundation; Adrianna Cuellar Rojas, United Ways of Texas)

Against — Jody Lyons, Frisco ISD Truancy Prevention; William Chapman, Jarrell ISD; James Henry, Justice Court/Juvenile Case Managers; John Payton and David Cobos, Justice of the Peace and Constables Association; Mindy Morris, Texas Truancy and Dropout Prevention Association; Brian Goodman, TRAC; Emily Arroyo; Bill Gravell); (*Registered, but did not testify*: Boyd Richie, Dallas County Truancy Courts; Peter Perez, Elgin ISD; Carlos Cantu, Efrain Davila, and Marsha Winship, Georgetown ISD; Tammy Fitzner, Jarrell ISD; Robert Garcia and Cynthia Rede, El Paso County Justice of the Peace Precinct Two; Jennifer Sellers, Texas Students First; Melissa Goins and Stacey Warner, Williamson County Justice of the Peace Precinct 3)

On — Michael Clearman, Aim; Dustin Rynders, Disability Rights Texas; Ron Quiros, Guadalupe County Juvenile Probation, Central Texas Chiefs Association; Ramiro Canales, Texas Association of School Administrators, Texas Association of Community Schools, Texas Rural Education Association; Nichole Bunker-Henderson, Texas Education Agency; Mark Williams, Texas Probation Association; Tammy Edwards; Jeff Gasaway; Joe Kopec; Steve Swanson; (*Registered, but did not testify*: David Slayton, Texas Judicial Council; Bronson Tucker, Texas Justice

Court Training Center; Jill Mata, Texas Juvenile Justice Department)

BACKGROUND: Education Code, sec. 25.094 makes it a class C misdemeanor (maximum fine of \$500) for an individual who is required to attend school and is between the ages of 12 and 17 to fail to attend school on 10 or more days or parts of days within a six-month period or on three or more days or parts of days within a four-week period. Offenses may be prosecuted in municipal or justice courts, or in constitutional county court if the county where the student lives or where the school is located has a population of 1.75 million or more.

Truancy also is considered “conduct indicating a need for supervision” under Family Code, sec. 51.03(b)(2) and is a civil matter when handled through juvenile probation and the juvenile courts.

When a student has 10 or more unexcused absences, Education Code, sec. 25.0951(a) requires school districts to either refer the student to juvenile court or to file complaints against a student, the student’s parent, or both for either the offense of truancy or the offense of parent contributing to nonattendance, found in Education Code, sec. 25.093. The criminal complaints can be filed in county, justice, or municipal courts.

Education Code, sec. 25.0915 requires school districts to adopt truancy prevention measures and lists criteria that the measures should be designed to accomplish.

DIGEST: CSHB 1490 would make the failure to attend school subject to a civil penalty, instead of a criminal offense, would require school districts to adopt progressive truancy interventions, and would require the automatic expunction of truancy records or complaints.

Civil penalty for failure to attend school. The bill would replace the current class C misdemeanor for failure to attend school with a civil penalty of \$100. The imposition of the civil penalty would not be considered a conviction for any purpose. If a student had 10 or more unexcused absences, districts would be able, but not required, to file a civil action against the student in county, justice, or municipal court or to refer the student to a juvenile court. The current requirement that school

districts file a court complaint against the student's parents if a student had 10 or more unexcused absences would be made permissive.

The bill would revise current provisions allowing peace officers to take individuals into custody, upon court order, for failure to attend school. The bill would add the option of issuing a citation in these cases.

Progressive truancy interventions. School districts would be required to adopt a progressive truancy intervention system that met criteria established by the bill. Systems of progressive truancy interventions would have to include at least three tiers of intervention. Districts would be required to apply the first tier of interventions to students with at least three unexcused absences in a school year and would have to apply the successive tiers if that student continued to have unexcused absences.

The first tier would have to include a conference with regular follow-up meetings and an attendance contract that included a description of the consequences if the student continued to have absences or school offenses. The consequences could include additional disciplinary action or a referral to juvenile court.

At least one tier after the first would have to include an individualized assessment of the student that identified the reasons for the absences, referred the student to counseling, if necessary, and referred the student to any services that focused on addressing the student's absences.

The bill would authorize certain consequences for students who continue to have unexcused absences after first-tier intervention, including community service, a restorative justice program, referral to teen court, weekend courses focusing on improved attendance and behavior, a reevaluation or assessment of certain individualized education programs, or an initial evaluation for special education services.

Automatic expunction of truancy records. Students convicted of a truancy offense or who have had a truancy complaint dismissed would be entitled to have the conviction or complaint and related records automatically expunged. The court handling the case would be required to order the records, including documents in possession of the school district

or a law enforcement agencies, to be expunged from the student's record. After a court enters an expunction order, the conviction or complaint could not be shown or made known for any purpose. The court would be required to tell the student of the expunction.

The bill would repeal provisions for expunging records relating to criminal convictions for failure to attend school and would eliminate the \$30 fee that courts can charge defendants in these cases to defray the cost of notifying state agencies of an expunction order.

The bill would take effect September 1, 2015, and would apply to persons issued citations or taken into custody after that date.

**SUPPORTERS
SAY:**

Civil penalty for failure to attend school. CSHB 1490 is needed to move the state away from relying on the criminal justice system to handle truancy. While the state and school districts should take truancy seriously, it is not a criminal act and is best handled in other ways.

Many jurisdictions use the current option of filing criminal truancy complaints in justice or municipal courts, which can result in overly harsh consequences. For example, a conviction can result in a criminal record which can have long-lasting effects on obtaining jobs, higher education, and more. Students can be assessed \$500 fines and court costs that can be difficult for some to pay, resulting in additional consequences. Unpaid fines can lead some to drop out of school, and could lead to an arrest when students turn 17 years old.

Judges can order students to attend programs which may be hard to attend or inappropriate. It can be difficult for students or their parents to understand the potential consequences of a criminal conviction, especially since students have no right to legal representation for class C misdemeanors and may be before the courts without an informed legal advocate.

Handling these cases in criminal courts can be especially unfair since some truant students have underlying problems or reasons outside of their control that keep them from school. For example, family, health, economic, and transportation issues or the need to access services can lead

to multiple absences. The consequences for truancy can fall disproportionately on low-income, minority, and disabled students.

The bill would address these issues by eliminating the criminal offense of truancy and handling cases more appropriately as a civil or juvenile court action. The bill would lower the fine to a more reasonable \$100 and would eliminate the inflexible mandate that forces certain cases be cited as a class C misdemeanor in local courts or to be referred to the juvenile court system. Instead, school districts would have the option to refer cases as civil or juvenile court actions but only after a student had gone through the progressive intervention program that would be established by the bill.

The bill also would keep the current offense that allows parents to be held accountable for truancy, but make filing such cases optional. This would give districts additional flexibility in handling these cases.

A uniform, statewide approach is needed to reduce inconsistent treatment of truancy and to keep all truants out of the criminal justice system. The bill would put Texas in line with almost every state by handling truancy as a civil matter.

The bill would not burden juvenile courts with truancy cases. Because of the requirement for progressive interventions and multiple unexcused absences before a case can move to juvenile court, the number of such cases should be limited.

Progressive truancy interventions. CSHB 1490 would require school districts to create progressive interventions programs to ensure that attempts are first made to address the reasons for chronic absences before moving to a civil penalty or juvenile court. While school districts currently are required to have truancy prevention measures, they may not be detailed enough and may not apply incrementally more serious interventions to more serious cases. The bill would not mandate a specific program, but would allow local jurisdictions to develop their own program within the bill's guidelines.

The bill would not be burdensome to districts. Districts already are required to adopt truancy prevention measures, and some may be using

progressive interventions that meet the bill's requirements. The importance of keeping students in school and handling truancy appropriately warrant the requirement that districts adopt progressive interventions.

Automatic expunction of truancy records. The bill would require automatic record expunction for those with criminal truancy convictions to ensure that these students were not burdened with a criminal record after the offense was decriminalized.

OPPONENTS
SAY:

Civil penalty for failure to attend school. The Legislature should not reduce the tools available to school districts to handle students who accumulate excessive unexcused absences by eliminating the class C misdemeanor for truancy. Truancy is properly classified as a class C misdemeanor, making it analogous to a traffic citation.

By the time a case is filed in a justice or municipal court, students have been given multiple chances to meet attendance requirements and court intervention may be necessary. Some municipal and justice courts have developed successful programs, services, and partnerships to address failure to attend school, and in some cases, these might be the best option. There are different kinds of truancy, some of which might best be handled by a class C misdemeanor citation, which may be necessary to get some students to attend school. Current law contains provisions allowing truancy records to be expunged.

The bill could result in more cases being handled by juvenile courts, which already have full caseloads of more serious cases. An influx of truancy cases could strain juvenile courts and cause delays, which is especially unwise in truancy cases in which the goal is to get the student back in school. Costs for these cases could increase, including costs for retaining and providing lawyers.

Progressive truancy interventions. The state should not mandate that districts adopt specific types of intervention programs. Many already have successful truancy programs that could have to be altered to fit the provisions of the bill. Requiring all school districts to adopt and use progressive truancy intervention programs could burden schools and

impose added costs on some. It could be difficult to offer the services and intervention required by the bill with existing staff and resources, many of which already are stretched thin. Some provisions, such as requiring referrals to outside services could cause substantial work that is outside of current school personnel's expertise.

Automatic expunction of truancy records. The bill contains no guidelines for when truancy records would be automatically expunged, which could lead to confusion and make it difficult for prosecutors and others to track previous offenses.

NOTES: The bill would result in an increase of \$2.1 million to general revenue related funds though fiscal 2016-17, according to the fiscal note.

SUBJECT: Dedicating revenue from the tax on crude petroleum production to RRC

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 19 ayes — Otto, Ashby, Bell, Capriglione, S. Davis, Giddings, Gonzales, Howard, Hughes, Koop, Márquez, McClendon, R. Miller, Phelan, Raney, J. Rodriguez, Sheffield, VanDeaver, Walle

0 nays

8 absent — Sylvester Turner, G. Bonnen, Burkett, Dukes, Longoria, Miles, Muñoz, Price

WITNESSES: For — (*Registered, but did not testify:* Dan Hinkle, EOG Resources; David Holt, Permian Basin Petroleum Association; Stephen Minick, Texas Association of Business; Lindsey Miller, Texas Independent Producers and Royalty Owners Association)

Against — None

BACKGROUND: Under Natural Resources Code, sec. 81.111, a tax on crude petroleum production, levied in the amount of three-sixteenths of one cent per barrel, is deposited in the general revenue fund.

DIGEST: HB 4034 would amend Natural Resources Code, ch. 81 to direct that the tax levied on crude petroleum production be deposited in the oil and gas regulation and cleanup fund, rather than the general revenue fund.

This bill would take effect September 1, 2015.

SUPPORTERS SAY: HB 4034 would ensure that a tax assessed on the oil and gas industry was used to fund the agency regulating the industry. The oil and gas regulation and cleanup fund is the main funding source for the Railroad Commission of Texas, allowing the agency to plug abandoned oil and gas wells and clean up abandoned oilfield sites. The Railroad Commission's well plugging goal for 2015 alone is more than 700 wells.

HB 4034 would be another step toward truth in taxation. Directing taxes and fees paid by the industry to the oil and gas regulation and cleanup fund would reduce the Railroad Commission's dependence on general revenue funds.

OPPONENTS
SAY:

HB 4034 would result in a loss to the general revenue fund of about \$3.6 million during the next biennium. While it might be appropriate for a tax assessed on the oil and gas industry to be used by the regulating agency, dedicating money out of general revenue would reduce the state's flexibility in budgeting.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 4034 would result in a shift of about \$3.6 million from the general revenue fund to the oil and gas regulation and cleanup fund during fiscal 2016-17.

SUBJECT: Allowing the wrongfully convicted to pass annuity payments to spouses

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond,
Schofield, Sheets, S. Thompson

0 nays

WITNESSES: For — Charles Chatman; Cornelius Dupree; Selma Dupree; Ed Heimlich;
Johnnie Lindsey; Johnny Pinchback; Sandra Pinchback; Cory Session;
Billy Smith; James Waller; David Wiggins; (*Registered, but did not
testify*: Sarah Pahl, Texas Criminal Justice Coalition)

Against — None

BACKGROUND: Under Civil Practice and Remedies Code, ch. 103 an individual who is
pardoned or granted relief under a writ of habeas corpus after being
wrongfully convicted is entitled to compensation for the individual's time
served.

Under sec. 103.53, claimants receive their payments as an annuity
payments based on the present value of the amount to which they are
entitled. However, under current law, claimants do not have an option that
would allow their spouses or heirs to receive payments after the claimant's
death.

DIGEST: CSHB 638 would allow an individual entitled to compensation for
wrongful imprisonment to select alternative annuity payments that would
allow the claimant's spouse and/or dependent to receive payments after
the claimant's death.

Under the alternative annuity payments, the claimant would have several
options for continued payment after death, including:

- making a percentage (100 percent, 75 percent, or 50 percent) of the
annuity payment payable to the claimant's spouse; or

- if the claimant died before 180 or 120 monthly alternative annuity payments were made, making the remainder of those payments payable to the claimant's spouse or designated beneficiary.

Alternative annuity payments would be actuarially reduced according to the claimant's selection.

The claimant would be required to make a selection within 45 days of applying for compensation. The comptroller would be required to develop a form for this selection and make it available by December 1, 2015.

Under the bill, if a claimant elected to receive alternative annuity payments and then survived his or her spouse, the claimant's monthly annuity payments would be increased to the amount that the claimant would have received if he or she had selected standard annuity payments.

If a claimant selected either the 180-month or 120-month option, the claimant could designate:

1. one beneficiary to receive the remainder of the payments;
2. two or more beneficiaries to receive the remainder of payments in equal amounts; or
3. a primary beneficiary to receive the remainder of the payments and an additional beneficiary to take the place of the primary beneficiary if the primary beneficiary died before the remainder of the payments were paid.

Under the second option, if one of the beneficiaries died before the remainder of the payments were paid, the comptroller would recalculate the payments so that the remaining beneficiaries received the remainder of the payments in equal amounts.

Under the third option, a claimant could not select more than four additional beneficiaries and would determine the order in which they would succeed the primary beneficiary. If each of the beneficiaries died before the remainder of the payments were paid, the remainder would be payable to the claimant's estate.

Only dependents of the claimant could be designated beneficiaries.

Under the bill, if a spouse or designated beneficiary was convicted of a felony, the payments would be terminated. If the spouse or designated beneficiary's payments were terminated, the remainder of the payments would be payable to any other beneficiaries or the claimant's estate.

The bill would take effect September 1, 2015. A claimant who started receiving annuity payments before that date could elect to receive any remaining payments as alternative annuity payments by filling out the form provided by the comptroller within 45 days of the form becoming available. The amount of the claimant's payments would be reduced accordingly.

SUBJECT: Studying the hydrology and geology of confined and unconfined aquifers

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Keffer, D. Bonnen, Burns, Frank, Kacal, T. King, Larson, Lucio, Nevárez, Workman

0 nays

1 absent — Ashby

WITNESSES: For — Steve Box, Environmental Stewardship; Ty Embrey, Middle Trinity Groundwater Conservation District, Panola County Groundwater Conservation District, Clearwater Underground Water Conservation District; Jim Conkwright, Prairielands Groundwater Conservation District; *(Registered, but did not testify:* John Dupnik, Barton Springs Edwards Aquifer Conservation District; Matt Phillips, Brazos River Authority; Julie Williams, Chevron; Teddy Carter, Devon Energy; Robby Cook, Hemphill County Underground Water Conservation District; Linda Curtis, Independent Texans; Michele Gangnes, League of Independent Voters of Texas; Paul Nelson, Lone Star Groundwater Conservation District; Drew Satterwhite, North Texas Groundwater Conservation District; C.E. Williams, Panhandle Groundwater Conservation District; Brian Sledge, Prairielands Groundwater Conservation District, Upper Trinity Groundwater Conservation District, Lone Star Groundwater Conservation District, Benbrook Water Authority, Barton Springs Edwards Aquifer Conservation District; Ken Kramer, Sierra Club - Lone Star Chapter; Stacey Steinbach, Texas Alliance of Groundwater Districts; Patricia Hayes, Texas Association of Groundwater Owners and Producers; Josh Winegarner, Texas Cattle Feeders Association; Billy Howe, Texas Farm Bureau; CJ Tredway, Texas Oil and Gas Association; Dean Robbins, Texas Water Conservation Association; Perry Fowler, Texas Water Infrastructure Network; Chloe Lieberknecht, The Nature Conservancy; Doug Shaw, Upper Trinity Groundwater Conservation District; Robert Turner, West Texas Regional Groundwater Alliance; Gregory Ellis)

Against — None

On — (*Registered, but did not testify*: Larry French, Texas Water Development Board)

BACKGROUND: The current drought has placed pressure on the state's supplies of surface water. As a result, Texas water policy increasingly has focused on finding and exploiting sources of fresh and brackish groundwater to help meet the state's growing water demands. While much work has been done to characterize and map the state's groundwater resources, more information is believed to be needed, particularly regarding the interaction of these groundwater supplies.

DIGEST: CSHB 1232 would require the Texas Water Development Board (TWDB) to conduct a study of the hydrology and geology of the state's confined and unconfined aquifers to determine:

- the quality and quantity of groundwater in those aquifers, specifically regarding salinity;
- whether those aquifers were tributary or non-tributary;
- the contribution of those aquifers to the flow of any surface water;
- the contribution of those aquifers to any other aquifer in this state; and
- the suitability of those aquifers for the disposal of concentrate from desalination facilities through the use of injection wells.

The TWDB would have to map and report its findings.

Before conducting the study, the TWDB would have to define "suitability" for the purpose of disposing concentrate from desalination facilities and the minimum rate at which an aquifer would have to contribute to another aquifer or the flow of any surface water in order to be included in the study.

By December 31, 2016, the TWDB would have to report the results of the study to the lieutenant governor, the speaker of the House of Representatives, and the Senate and House committees with jurisdiction over natural resources.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Reducing certain prostitution penalties to misdemeanors

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson
0 nays
1 absent — Shaheen

WITNESSES: For — Paul Blocker, Dallas County; Cate Graziani, Mental Health America of Texas; Sarah Pahl, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Kathryn Griffin, We've Been There Done That, HCSO Reentry Services; Lisa Riles, Matilda Perez, Donna Forest, We've Been There Done That; *(Registered, but did not testify: Matt Simpson, ACLU of Texas; Thomas Ratliff, Harris/Fort Bend County Criminal Lawyers Association; Kristin Etter, Texas Criminal Defense Lawyers Association; Rebecca Bernhardt, Texas Fair Defense Project; Yannis Banks, Texas NAACP)*

Against — None

On — *(Registered, but did not testify: Shannon Edmonds, Texas District and County Attorneys Association)*

BACKGROUND: Penal Code, sec. 43.02 makes prostitution a crime. It is an offense to:

- knowingly offer to engage, agree to engage, or engage in sexual conduct for a fee; or
- solicit another in a public place to engage in sexual conduct for hire.

The offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000). It is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for those with one or two previous convictions, and a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) for those with three or more

previous convictions.

Health and Safety Code, ch. 169 and ch. 169A authorize cities and counties to establish first offender prostitution prevention programs and prostitution prevention programs. Both statutes include several requirements for the programs, including access to certain types of information.

DIGEST: CSHB 1363 would revise the penalties for knowingly offering to engage, agreeing to engage, or engaging in sexual conduct for a fee. First offenses would be reduced from the current penalty of a class B misdemeanor to a class C misdemeanor (maximum fine of \$500). Second or third offenses would be class B misdemeanors, instead of class A misdemeanors. After three previous convictions, the offense would be a class A misdemeanor, instead of a state jail felony.

Courts would be authorized in certain prostitution cases to defer proceedings without entering an adjudication of guilt and allow the defendant to participate in a prostitution prevention program. This deferment could occur on the request of the defendant and with the consent of the prosecutor. If the defendant successfully completed the program within a year of deferral, courts would be able to dismiss the proceedings.

The bill would require first offender prostitution prevention programs and prostitution prevention programs established under Health and Safety Code, ch. 169 and ch. 169A to provide participants with access to information about commercial sexual exploitation and human trafficking.

The bill would take effect September 1, 2015, and would apply to offenses committed on or after that date.

SUPPORTERS SAY: CSHB 1363 would allow Texas to take a less punitive, but fair and effective, approach to those who engage in prostitution by selling sex.

The current policy of increasing penalties up to a state jail felony for repeat prostitution offenses is overly punitive given that prostitution is a nonviolent offense and given the circumstances faced by many offenders.

Women involved in prostitution often are dealing with numerous issues, including mental health, substance abuse, emotional trauma, and homelessness. These issues can make it difficult to leave prostitution, even after a conviction for the offense. Many of those convicted of prostitution continue to cycle through the criminal justice system, dealing with increasing penalties as they accumulate more offenses.

The bill would deescalate the penalties for prostitution so that they remain misdemeanors. Establishing the maximum penalty as a class A misdemeanor would allow for appropriate punishment that held offenders accountable without overcriminalizing these actions. The current state jail felony conviction for repeat offenses can make it difficult for those wanting to leave prostitution to obtain jobs, housing, and educational opportunities. The change also would create a distinction in the penalties for those engaging in prostitution and those soliciting.

The bill would encourage more participation in prostitution prevention programs because they are an effective and cost-efficient way of stopping the cycle of prostitution. The bill would make it clear that the programs were available, with the consent of prosecutors, before trials begin, that prosecutions can be deferred if someone enters a program, and that courts can dismiss offenses upon successful completion of the programs. The bill would make the programs more effective by including information about commercial sex exploitation and human trafficking .

OPPONENTS
SAY:

CSHB 1363 would make prostitution a class C misdemeanor for first offenses, which could be too much of a reduction in punishment and may have unintended consequences. Class C misdemeanors are subject only to a \$500 fine, which may not be enough of a penalty to influence someone to stop the activity. In addition, class C misdemeanors are handled by justice and municipal courts, which do not operate prostitution intervention programs, so it may be unclear how a first offender could be referred to such programs.

OTHER
OPPONENTS
SAY:

Limiting dismissals of prostitution cases to situations in which a defendant completed a prevention program within a year could disqualify some deserving defendants from gaining a dismissal. Some individuals may complete a program just past the deadline or have extenuating

circumstances preventing them from completing a program within one year, and the bill might unfairly exclude them from gaining a dismissal.

NOTES:

The author plans to offer floor amendments that would leave first offenses for prostitution class B misdemeanors, instead of class C misdemeanors, and that would remove the requirement that prostitution prevention programs be completed within one year to make a defendant eligible for a dismissal.

SUBJECT: Awarding high school credit to Windham School District students

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Murphy, J. White, Allen, Keough, Krause, Schubert, Tinderholt

WITNESSES: For — Ellen Arnold, Texas Association of Goodwills; Douglas Smith, Texas Criminal Justice Coalition; Derek Cohen, Texas Public Policy Foundation; (*Registered, but did not testify*: Edwin Ortiz, Association of Texas Professional Educators; Traci Berry, Goodwill Central Texas; Cathy Dewitt, Texas Association of Business; Lori Henning, Texas Association of Goodwills)

Against — None

On — Paul Brown and Clint Carpenter, Windham School District

BACKGROUND: The Education Code contains provisions for the education and training of offenders housed in Texas Department of Criminal Justice (TDCJ) facilities under the Windham School District, which was established by the Texas Board of Corrections in 1969. The Windham School District establishes and operates schools at various facilities of TDCJ and is required to provide educational programs designed for individuals who have not graduated high school. The district also offers career and technical education programs. The goals of the Windham School District include reducing recidivism and increasing the employability of former offenders upon release.

DIGEST: HB 618 would enable students in the Windham School District to earn credit toward the academic, career and technology, or other course requirements for high school graduation. Students would need to successfully complete educational programs offered by the district, and the programs offered would need to meet academic standards set by the State Board of Education.

The bill would enable students to earn a high school diploma from the Windham School District if the student successfully completed all state

curriculum requirements and achieved satisfactory performance on the state assessments required for graduation. A student receiving special education services could graduate under modified requirements outlined in the student's individualized education program.

If a student were unable to achieve satisfactory performance on the state assessment instruments required for graduation but successfully completed necessary coursework, the bill would allow the district to issue a certificate of coursework completion to the student.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Allowing supplemental environmental projects in lieu of penalties

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 9 ayes — Morrison, E. Rodriguez, Isaac, Kacal, K. King, P. King, Lozano, Reynolds, E. Thompson

0 nays

WITNESSES: For — Bryan Grimes, City of Ballinger; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Shanna Igo, Texas Municipal League; Rick Hardcastle, Wilbarger County and City of Vernon)

Against — None

On — (*Registered, but did not testify:* Cyrus Reed, Lone Star Chapter Sierra Club; Caroline Sweeney, Texas Commission on Environmental Quality)

BACKGROUND: Texas Water Code, sec. 7.051 allows the Texas Commission on Environmental Quality (TCEQ) to assess administrative penalties for violations of TCEQ rules, permits, or provisions of code within the agency's jurisdiction.

Under Texas Water Code, sec. 7.067, TCEQ may approve a supplemental environmental project that is necessary to bring a respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the respondent's alleged violation if the respondent is a local government. A supplemental environmental project is a project that prevents pollution, reduces the amount of pollutants reaching the environment, enhances the quality of the environment, or contributes to public awareness of environmental matters.

DIGEST: HB 1269 would require the Texas Commission on Environmental Quality (TCEQ) to approve a supplemental environmental project in lieu of payment of an administrative penalty if the respondent was:

- a county with a population of less than 50,000; or
- another local government with any territory located in a county with a population of less than 50,000.

If the cost of the supplemental environmental project was less than the amount that would have been assessed under the administrative penalty, the local government would have to spend the difference on upgrading the facility at which the violation occurred.

HB 1269 also would exempt these local governments from TCEQ's policy preventing regulated entities from systematically avoiding compliance through the use of supplemental environmental projects.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

HB 1269 would allow a county with population of less than 50,000 to apply the amount of money it would have paid in an administrative penalty toward addressing the problem that caused the violation.

TCEQ does not take the population density of jurisdictions into account when assessing fines for environmental infractions. As a result, fines imposed on smaller communities have a substantial financial impact per capita, hampering a smaller community's ability to fix the problem that caused the violation. As smaller communities continue to need repairs on aging infrastructure, HB 1269 would be a common sense approach to allow the spending of money to fix a problem rather than just pay a fine.

**OPPONENTS
SAY:**

Requiring TCEQ to approve a supplemental environmental project in lieu of penalty payment might not be appropriate in every instance. TCEQ should continue to have the flexibility and discretion to assess penalties as appropriate.

SUBJECT: Reporting certain delinquent sales tax information to municipalities

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Parker, Springer, C. Turner, Wray

0 nays

WITNESSES: For — Julie Masters and Julie Robinson, City of Dickinson; John Kroll, City of Humble; (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; John Greytok, City of Stafford; Shanna Igo, Texas Municipal League)

Against — None

On — (*Registered, but did not testify*: Eric Stearns, Texas Comptroller of Public Accounts)

BACKGROUND: Municipalities rely on the comptroller to collect and administer the local sales tax. Current law requires the comptroller to report the amount of tax paid or not paid to the state but does not require the comptroller to report the amount paid to the municipality. Municipalities could use this additional information to increase enforcement of municipal sales taxes.

DIGEST: CSHB 1871 would require the comptroller to include certain information in its additional quarterly report to a municipality that requested one. Specifically, the comptroller would provide information about the amount of sales tax paid by a business that had not paid the full amount of sales tax to the municipality.

If the municipality determined that the business had not fully collected or reported its municipal sales tax due to the municipality, it would report to the comptroller the name and address of the business. The comptroller would have 120 days, as opposed 90 days under current law, to respond as to whether the business was obligated to pay the delinquent taxes.

If the comptroller responded to such a report with a statement that the tax was delinquent, the comptroller would be required to include a description of the action the comptroller was taking to account for the tax due the municipality.

A municipality that provided the report described above to the comptroller would preserve its right to receive the municipal sales tax due from the business in question for the four years preceding the date the comptroller received the report and for each subsequent reporting period until the comptroller had fulfilled its duties under the bill.

The comptroller would be allowed to charge municipalities reasonable fees to cover the expense of compiling and providing information.

This bill would take effect September 1, 2015.

NOTES:

The Legislative Budget Board's fiscal note indicates that the bill would have a negative net impact of \$16.6 million to general revenue through fiscal 2016-17.

SUBJECT: Repealing the inheritance tax

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — D. Bonnen, Bohac, Button, Darby, Murphy, Parker, Springer, C. Turner, Wray

2 nays — Y. Davis, Martinez Fischer

WITNESSES: For — (*Registered, but did not testify*: Craig Hopper)

Against — None

On — William Kuntz, Texas Department of Licensing and Regulation;
(*Registered, but did not testify*: Karey Barton and Tom Currah,
Comptroller of Public Accounts)

BACKGROUND: In 2001, Congress passed the Economic Growth and Tax Relief and Reconciliation Act, which repealed the federal tax credit for state inheritance taxes. Tax Code, sec. 211.051 imposes a tax equal to the amount of the federal credit on the transfer at death of the property of a resident.

DIGEST: CSHB 2114 would repeal Tax Code, ch. 211, eliminating the inheritance tax.

This bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

SUPPORTERS SAY: CSHB 2114 would repeal the inheritance tax, which already has been effectively eliminated by federal action. Because Texas law is written so that the inheritance tax is zero if the federal tax credit is zero, the comptroller only collects the tax if the death occurred before January 1, 2005, the date when the federal tax credit was abolished.

This tax accounted for only \$12,000 in general revenue in 2014. The bill would enable the comptroller to shift resources from efforts to collect on

the inheritance tax. These resources would generate far more return on investment if they were deployed elsewhere.

OPPONENTS
SAY:

CSHB 2114 would eliminate a tax on the grounds that it does not bring in sufficient revenue to offset the time spent collecting it. However, a tax that is comparatively less cost effective to collect should not necessarily be eliminated.

SUBJECT: Requiring disclosure of payable-on-death account information

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Clardy, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

1 absent — Hernandez

WITNESSES: For — Patricia (Trish) McAllister, Texas Access to Justice Commission; Julie Balovich; Bruce Bower; (*Registered, but did not testify*: Stephen Scurlock, Independent Bankers Association of Texas; Randall Chapman; Guy Herman)

Against — None

BACKGROUND: Estates Code, sec. 113.052 provides the uniform single-party or multiple-party account selection form notice, or the uniform account form. The uniform account form provides customers with information regarding the types of accounts available to them, including single-party accounts with payable-on-death designations, multiple-party accounts with rights of survivorship, and trust accounts.

DIGEST: HB 704 would require financial institutions to disclose the information in the uniform account form at the time a customer selected or modified an account. If a bank used the uniform account form, the bank would be required to have the customer initial every paragraph of the form.

If a bank varied the format of the uniform account form, the disclosures contained in the form would be required to be given separately from other account information, be provided before account selection or modification, be printed in 14-point bold type, and, if discussions with the customer were primarily in a foreign language, be in that language. The financial institution would be required to notify the customer of the type of account the customer selected.

This bill would take effect September 1, 2015, and would apply only to accounts created or modified on or after that date.

**SUPPORTERS
SAY:**

HB 704 is necessary to make customers, especially low-income customers, aware of the option for a payable-on-death account. Payable-on-death accounts allow ownership of the account to pass to designated beneficiaries following the account holder's death without the need for probate administration. This would allow for access to the accounts by heirs without costly and time-consuming probate procedures. Low-income customers often leave behind accounts with balances that are too small to cover the costs of probate or small account affidavits, making it impossible for heirs to access the accounts on the death of their loved ones.

Financial institutions already are required to make the disclosures involved in this bill. HB 704 simply would ensure that customers were given meaningful notice of the disclosures.

**OPPONENTS
SAY:**

No apparent opposition.

SUBJECT: Requiring written notice to buyers of property near military installations

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 6 ayes — S. King, Frank, Blanco, Farias, Schaefer, Shaheen
1 nay — Aycock

WITNESSES: For — Michael Carpenter, City of Schertz, Texas, Northeast Partnership for Economic Development; Jim Wolverton, Guadalupe County, Alamo Area Council of Governments; Kelly Flanagan, Texas Association of REALTORS; (*Registered, but did not testify:* Seth Mitchell, Bexar County Commissioners Court; TJ Patterson, City of Fort Worth; Jeff Coyle and Robert Murdock, City of San Antonio; Jim Allison, County Judges and Commissioners Association of Texas; Susan Redford, Ector County, Texas; Michael Moore, Greater San Antonio Builders Association, Real Estate Council of San Antonio; Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America)

Against — None

On — Robin Baldwin and Matthew Isler, 12th Flying Training Wing Joint Base San Antonio, Randolph, TX; (*Registered, but did not testify:* Troy Palmer, 12th Flying Training Wing; Douglas Oldmixon, Texas Real Estate Commission)

BACKGROUND: Property Code, sec. 5.008 requires the seller of certain residential property to provide the purchaser with written disclosure regarding various aspects of the property.

DIGEST: CSHB 1639 would add a provision to the seller's disclosure notice to make buyers of certain residential property aware that the property could be located near a military installation and could be affected by high noise or air installation compatible use zones or other operations.

The provision would state that information relating to these issues was available in the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study, which could be accessed on the website of the military installation for which the study was prepared and on the websites of the county and municipality in which the military installation was located.

A county and any municipality in which a military installation was located would have to work with the installation to ensure that the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study, or a link to the information, was made publicly available on the local government entity's website.

The bill would take effect September 1, 2015, and a seller would be required to provide the updated notice only for a transfer of property for which the binding contract was executed on or after that date.

**SUPPORTERS
SAY:**

CSHB 1639 would help home buyers near military installations make more informed purchases by informing them of whether a property was located in an area that was prone to high noise levels and military aircraft operations. Aircraft operations taking place at military installations all over the state create sustained noise throughout the year, and increased growth in housing developments has entered into clear zones and accident-potential zones at the ends of runways, placing those communities at greater risk of plane crashes. This bill would increase transparency and consumer protection in the home-buying process and would provide resources to buyers to make a more informed decision about the risks of living near a military installation.

**OPPONENTS
SAY:**

CSHB 1639 is unnecessary because anyone moving into an area near a military installation would be aware of its proximity and the impacts the installation could have on the neighborhood, eliminating the need for the seller's disclosure form to include this information. In fact, many individuals moving into these areas are military members who are aware of the impact of living near an installation.

SUBJECT: Amending procedures to seal certain juvenile court records

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White
0 nays

WITNESSES: For — Lauren Rose, Texans Care for Children; Mary Mergler, Texas Appleseed; Patricia Cummings, Texas Criminal Defense Lawyers Association; Elizabeth Henneke, Texas Criminal Justice Coalition; Greg Glod, Texas Public Policy Foundation; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Lynne Wilkerson, Bexar County Juvenile Probation Department; Ron Quiros, Guadalupe County Juvenile Services; Yannis Banks, Texas NAACP)

Against — None

On — Lisa Tomlinson, Texas Probation Association; (*Registered, but did not testify*: Jill Mata, Texas Juvenile Justice Department)

BACKGROUND: Family Code, sec. 58.003 governs the sealing of juvenile court records. Upon the application of a person with a juvenile record and subject to some restrictions, courts are required to seal records if:

- two years have passed since the discharge of the person or the last action in the case; and
- the person has not been convicted of or adjudicated delinquent for a felony or a misdemeanor involving moral turpitude or found to have engaged in any new juvenile adjudications and there are no such proceedings.

Additional requirements exist for sealing the records of youth adjudicated for conduct constituting a felony. Courts are prohibited from sealing the records of persons who received determinate sentences, which are authorized for certain offenses.

Once a person's sealed record eligibility is determined, the court must hold a hearing before ordering a record sealed, unless the applicant waives the right to the hearing and the court and prosecutors consent to the waiver.

When a juvenile record is sealed, a court orders all records of a juvenile to be sent to the court issuing the order. The records remain at the juvenile court, where prosecutors and the Department of Public Safety may seek to reopen the records under limited circumstances. Individuals also may allow inspection of their records by others through a court order.

Under Family Code, sec. 58.003 people whose juvenile records have been sealed are able to deny, in applications for employment, licensing, or other essentials such as housing and education, that they have ever been the subject of a juvenile proceeding or that they have ever been adjudicated delinquent. Courts, prosecutors, and others must answer that the records do not exist.

DIGEST: HB 263 would allow for the immediate order to seal an eligible individual's juvenile record without an application to the court, subject to certain limitations.

Notice. Courts could initiate the record sealing process if the subject of the record, the person's attorney, a juvenile probation officer, or a school attendance officer provided notice to the court that the individual was eligible to have a record sealed. Notice to the court of an individual's eligibility could be submitted by a signed statement or notarized affidavit.

Expanded eligibility. The bill would allow persons who were 17 or older to have their records sealed if the final discharge or last official action in their case took place before they turned 17, even if it had been fewer than two years since the last action in the case. Individuals would still need to meet other eligibility requirements, such as not being convicted of or adjudicated delinquent for a felony or a misdemeanor involving moral turpitude since turning 17. Records for certain felonies and determinate sentences would still be subject to sealing prohibitions or limitations.

Hearing. If a court found a person eligible for a sealed record, the bill

would require the court to issue notice to the prosecutor that the record would be sealed in 30 days if no objection was made within that time by the prosecutor. Unless the prosecutor objected to the record sealing, the bill would remove the requirement that the court hold a hearing to seal a record for delinquency or conduct indicating a need for supervision, and the court would be required to seal the record immediately. To seal a record for conduct that equated to a felony, the court would still be required to hold a hearing unless it was waived.

Access. The bill would amend requirements for the handling of sealed juvenile records by the Department of Public Safety, requiring it to certify restricted access to the records. Individuals would be permitted to allow others to copy and inspect their records by court order.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to the sealing of and restraining or granting access to juvenile records on or after that date, regardless of when the adjudication took place.

**SUPPORTERS
SAY:**

HB 263 would make important changes to the process of sealing juvenile records to better meet one of the goals of the juvenile justice system — to give children a second chance.

The current process for sealing these records can be cumbersome, lengthy, and expensive because the subject of the record must make an application to the court, which often necessitates hiring an attorney and paying a court fee. Few people with juvenile records take advantage of the ability to seal their records because of these procedural and financial hurdles or because they assume that restricted access provisions for juvenile records are enough. This bill would better enable people to seal their records and prevent these records from negatively impacting them in the future.

Juvenile records can greatly impact a young person's ability to mature into a successful adult. Youth who have committed offenses and have paid their dues to society are entitled to move on with their lives and move past their mistakes. The bill would speed up record sealing eligibility for individuals who were 17 or older, which is when most people finish high

school. Expanding the ability of these youthful offenders to seal their records would remove potential barriers to college, the military, or housing when they reach this critical age.

While many counties currently exercise broader ability to seal records, this bill would provide uniformity in how courts across the state handle the process. The bill also would address current law's lack of time standards for ordering juvenile records sealed, requiring courts to automatically seal an eligible individual's record immediately.

The bill would uphold public safety by maintaining limitations, such as requiring a hearing, on sealing records for certain felony offenses. Felony records involving determinate sentences, cases transferred to adult court, and records of registered sex offenders would continue to be ineligible for sealing. In addition, the bill would allow prosecutors the opportunity to object to the sealing of records and have the order be subject to a hearing. Providing proper notice to agencies that a record has been ordered sealed could be shifted to the court instead of an attorney because the purpose of the bill is to reduce the burdens on individuals to have their records sealed.

OPPONENTS
SAY:

HB 263 could make it harder for law enforcement to track youth recidivism. While law enforcement may access sealed juvenile records in limited circumstances, the bill's expansion of the procedure to seal records would increase the number of young people that probation officers and law enforcement generally could not monitor throughout their juvenile years. Sealing also makes it difficult to provide appropriate resources to a juvenile who reoffends because records of past services, programs, and family history would all be gone.

The bill could mislead individuals by calling records "automatically sealed," when in fact the process is more involved, requiring notice to officials and agencies of the order to get rid of these records. While a person's attorney under the current process would know which officials and agencies to inform of the order, a court or an individual might not.

SUBJECT: Requiring TDCJ to study pay-for-performance contract program

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Murphy, J. White, Allen, Keough, Krause, Schubert, Tinderholt
0 nays

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Bryan Collier, Texas Department of Criminal Justice)

BACKGROUND: Pay-for-performance contracting is a financing model that can include allowing a governmental entity to partner with private organizations, investors, and others to provide a service. The model can include the development and implementation by partnering entities of strategies to meet measurable outcomes in return for success payments from the governmental entity for meeting those outcomes.

DIGEST: HB 307 would require the Texas Department of Criminal Justice (TDCJ) to conduct a study to determine the feasibility and potential costs and benefits of a pay-for-performance contract program.

Under such a program, TDCJ would contract for the operation of criminal justice programs or the provision of services that would be funded with investor-provided financial capital. TDCJ would make payments to the contractor using general obligation bond proceeds or other money only if performance requirements and outcomes were achieved and there was a positive return on the investment to the state.

TDCJ would produce a report on the study, which would have to include whether the agency determined that a pay-for-performance program would be cost effective and feasible. If TDCJ made such a determination, the report would have to make recommendations on operating the

program, the types of programs and services that would be selected, and changes in laws needed to implement the program.

TDCJ could request assistance with the study from the comptroller, the Texas Public Finance Authority, or other state agencies.

TDCJ would have to submit the report by November 1, 2016, to the governor, lieutenant governor, and the heads of the House and Senate committees with jurisdiction over criminal justice programs and services.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Restricting named driver auto insurance policies

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Paul, Vo, Workman
2 nays — Meyer, Sheets

WITNESSES: For — Ware Wendell, Texas Watch; Robert Beck; (*Registered, but did not testify*: Deborah Polan, CarMax; Melodie Durst, Credit Union Coalition of Texas; Mark Fish, Dynamic Motors, Inc.; Kyle Chapman, Kyle Chapman Motor Sales and Chapman Motor Sales; Deborah Ingersoll, Texas Association of Consumer Lawyers; Martin Garcia, Texas Auto Center LLC; Daniel Langfield and Jeff Martin, Texas Independent Automobile Dealers Association; Bryan Blevins, Texas Trial Lawyers Association; Lon Craft, TMPA; John Brieden; Karen Easterling; Jessica Morones; Lynn Perry)

Against — Jack Ikenaga, ACCC Insurance Company; Jay Thompson, AFACT; Paul Harrison, Alinsco; Lee Loftis, Independent Insurance Agents of Texas; Paul Martin, National Association of Mutual Insurance Companies; Joe Woods, Property Casualty Insurers Association of America; Christian Duran, S&T Duran, Inc.; (*Registered, but did not testify*: Jonna Kay Hamilton, Nationwide Insurance and Titan Insurance; Patricia Ryan, Old American; Theresa Elliott, Sentry Insurance)

On — Deeia Beck, Office of Public Insurance Counsel; (*Registered, but did not testify*: Debra Knight and Mark Worman, Texas Department of Insurance)

BACKGROUND: The Texas Department of Insurance approves named driver personal automobile insurance policies under Insurance Code, ch. 1952. These policies cover only the individuals listed in the policy — other members of the insured's household are not covered under named driver policies.

Insurance Code, sec. 1952.0545 requires insurance carriers to give disclosure orally and in writing of the limits of named driver policies.

Motorists also must sign written acknowledgements of these limits.

DIGEST: CSHB 335 would prohibit insurance carriers writing auto insurance in Texas from issuing and renewing named driver policies, except for an operator's policy that covered the named person when operating a vehicle that person did not own. A policy would have to cover each driver in a household unless drivers were specifically excluded by name in a named driver exclusion provision, which could not exclude a class of drivers and would have to be accepted in writing by the named insured.

The bill would define "household" to mean a unit composed of people living together in the same dwelling, whether or not they were related. This could include people living together in a home or mobile home, or a unit in a duplex, apartment, condominium, or multi-unit residential structure.

The insurance commissioner could adopt rules to implement the bill.

CSHB 335 would take effect September 1, 2015 and would apply only to an insurance policy that was delivered, issued for delivery, or renewed on or after January 1, 2016.

SUPPORTERS SAY: CSHB 335 would ensure that car insurance policies covered all potential drivers of vehicle in a household, unless particular drivers specifically were excluded. Named driver policies tend to be less expensive than traditional auto insurance policies, but consumers can be unaware of the exclusions in their policies. Too often, a person who borrows a vehicle with a named driver policy causes a crash. Because the operator of the vehicle is not covered by the named driver policy, victims of the accident cannot get paid for claims against the vehicle.

If a member of a household is expensive to insure because of past crashes or enforcement actions, CSHB 335 would allow carriers to exclude specific motorists to save the subscriber money. By excluding particular individuals from a policy, subscribers would better know who could and who could not operate their vehicle.

Auto insurance policies typically have a permissive household use

provision, but named driver policies do not. Because they deviate from traditional policies, they confuse subscribers. In some cases, insurance carriers are too liberal in their definition of a household, which CSHB 335 would remedy by providing a specific definition.

According to the Texas Department of Insurance, claims closed without payment due to non-covered drivers on named driver policies have increased significantly over the last few years. Some individuals get named driver policies on a short-term basis to obtain a driver's license and then let the policy lapse once they receive the ID card. CSHB 335 would address these issues by prohibiting named driver policies.

While named driver policies tend to be less expensive than traditional policies, there is no clear connection between the cost of policies and rates of uninsured motorists.

**OPPONENTS
SAY:**

CSHB 335 would increase the number of uninsured motorists on Texas roads. Named driver policies typically are used by low-income motorists who need basic coverage at the lowest rate possible. Under this bill, these motorists would have to choose between buying a more expensive policy and going without insurance.

A named driver policy subscriber must give written acknowledgement that he or she is the only driver covered each the policy is renewed. For subscribers that are on month-to-month policies, this means that they must visit an insurance office each month to sign this acknowledgement. It is unlikely that subscribers of these policies are unaware of the policies' limitations.

SUBJECT: Prohibiting certain telemarketing calls by credit access businesses

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 6 ayes — Oliveira, Simmons, Collier, Fletcher, Romero, Villalba

1 nay — Rinaldi

WITNESSES: For — Joe Sanchez, AARP; Rob Kohler, Christian Life Commission, Baptist General Convention of Texas; Jim Hornsby, Churches Touches Lives for Christ; Judy Morales, City Council District 2; Michael Bergman, Family Promise, East Bell County; Rucker Preston, Helping Hands Ministry of Belton; Ann Baddour, Texas Appleseed; Daniel Ramos; Janice Rivera; (*Registered, but did not testify*: Lori Henning, Texas Association of Goodwills; Shanna Igo, Texas Municipal League; Jennifer Allmon, the Texas Catholic Conference of Bishops; Susan Hoff, United Way Metropolitan Dallas; Katherine Von Haefen, United Way of Greater Houston; Casey Smith, United Ways of Texas)

Against — (*Registered, but did not testify*: Deborah Reyes, Advance America; Adam Burklund, Consumer Service Alliance of Texas; Cathy Dewitt, Texas Association of Business)

On — (*Registered, but did not testify*: Leslie Pettijohn, Office of Consumer Credit Commissioner)

BACKGROUND: Business and Commerce Code, ch. 304 is the Texas Telemarketing Disclosure and Privacy Act, under which telemarketers are prohibited from calling individuals on the Texas no-call list.

According to sec. 304.004, the act does not apply to certain telemarketing calls, such as those made in connection with an established business relationship. The act also does not apply to telemarketing calls made by a state licensee under certain circumstances.

Under Finance Code, ch. 393, “credit access business” means a credit services organization that obtains for a consumer or assists a consumer in

obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.

DIGEST: CSHB 411 would specify that the Texas Telemarketing Disclosure and Privacy Act applied to a credit access business licensed under Finance Code, ch. 393, subch. G.

The bill would prohibit a credit access business or its representatives from making a telemarketing call, as defined by the act, to a consumer, regardless of whether the consumer was listed on the Texas no-call list maintained under Business and Commerce Code, ch. 304, subch. B.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 411 would protect vulnerable consumers from predatory lending practices often used by credit access businesses, including certain payday lenders. The bill would prohibit credit access businesses from calling individuals with whom they did not have an established business relationship. Many people who receive these calls are in need of money and do not understand the consequences of receiving a high-interest or auto title loan. The high interest rates and fees make these loans difficult to pay back, and many individuals find themselves in a never-ending cycle of debt after they receive one. People are especially vulnerable over the phone because they cannot see the fine print of the loan they are receiving and can be confused easily by the terms of the loan.

The bill would not burden the credit access businesses because they still could call current clients and could advertise for new clients through a number of tactics, including sending advertisements through the mail.

OPPONENTS SAY: CSHB 411 would make it unclear whether credit access businesses ever could make telemarketing calls to people with whom they had an established business relationship. The bill also would not provide a specific timeframe to determine when a business relationship ceased to exist. This could cause confusion for credit access businesses because it would not be clear whether such a business could make a telemarketing

call to a client. Credit access businesses provide an important service to individuals who are in need of money, and they have a right to solicit their services, especially to those who have used their services in the past.

Additionally, the bill would prohibit credit access businesses from making telemarketing calls to individuals who were not listed on the Texas no-call list. Generally, individuals who do not wish to receive calls from businesses must inform those businesses of that. The bill would place an unreasonable limitation on credit access businesses that did not apply to other businesses, further burdening a highly regulated and much maligned industry.

SUBJECT: Selecting Texas delegates to an Article 5 convention

COMMITTEE: State and Federal Power and Responsibility, Select — committee substitute recommended

VOTE: 5 ayes — P. King, Workman, C. Anderson, Clardy, Parker
2 nays — Miles, Walle

WITNESSES: For — Robert Peery, Arthur Bedford, Paul Hodson, Wes Whisenhunt, and Tamara Colbert, Convention of States Project; Delvis Dutton, State of Georgia; Martin Harry, Texas Convention of States Project; Thomas Lindsay, Texas Public Policy Foundation; (*Registered, but did not testify:* Ilya Shapiro, Cato Institute; Allison Tangeman, Convention of States Project)

Against — None

BACKGROUND: Article 5 of the U. S. Constitution requires Congress to call a convention to propose constitutional amendments upon application of the legislatures of two-thirds of the states. Any amendments adopted by an Article 5 convention must be ratified by the legislatures of three-fourths of the states.

DIGEST: CSHB 1110 would establish a process for selecting delegates to a convention called under Article 5 of the U.S. Constitution and would establish duties for those delegates.

As soon as possible following the calling of an Article 5 convention by Congress, the Legislature would be required to appoint delegates and alternates to represent Texas at the convention. Delegates and alternates would have to be qualified voters and could not be registered lobbyists or hold an elected federal office.

The Legislature would appoint either the number of delegates allocated to represent Texas or, if no allocation was made, two delegates. The Legislature would appoint an equal number of alternates and pair each

with a delegate. An alternate would automatically fill a vacancy in the office of the alternate's paired delegate, and the Legislature would select a new alternate. A delegate or alternate would not be entitled to compensation but could receive reimbursement for necessary expenses.

The Legislature would be required to adopt instructions to govern the delegates and alternates, who could not be instructed to consider or vote to approve a constitutional amendment that was not authorized by the Legislature in its application to Congress for the convention. Delegates and alternates would take an oath.

A delegate or alternate would be prohibited from casting an unauthorized vote, defined by the bill as a vote contrary to the Legislature's instructions or that exceeded the scope or subject matter of the convention as authorized by the Legislature. A vote determined to be unauthorized would be invalid, and a delegate or alternate who caused an unauthorized vote would be disqualified from further service.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1110 would provide a structure for how Texas would participate in any convention of states called by Congress under Article 5 of the federal Constitution. The bill would require the Legislature to select delegates and alternates to the convention and would strictly limit their conduct. The Legislature would be the appropriate body to choose delegates who could be counted on to follow Texas voters' instructions on what issues should be presented to a convention.

Even if Texas did not become one of the states to call for a constitutional convention, such a convention still could happen if enough other states took action. The bill would ensure guidelines were in place to select and instruct delegates from Texas.

Those opposed to an Article 5 convention often cite the risk of a "runaway" convention opening up the Constitution to myriad issues. The bill would guard against the possibility of a wide-open convention by

banning delegates from voting on issues outside the scope of an application from Texas. Any rogue delegate who cast an unauthorized vote would find that vote invalidated and their status as a delegate revoked.

An Article 5 convention was placed in the U.S. Constitution by the founding fathers as a tool for states to limit federal power. Thirty-four states have called for a convention, although some later rescinded their calls. Some states have requested a specific issue, such as a balanced-budget amendment, while others have requested a set of issues. Most of these issues are not partisan or related to the current administration but are aimed at curbing a federal government that has been extending its authority for decades.

**OPPONENTS
SAY:**

CSHB 1110 would give the Legislature sole control over the selection of delegates to an Article 5 convention instead of sharing control among the three branches of government as other states have done. Other states also have provided for an odd number of delegates to avoid the chance that delegates from a state could cancel each other's votes.

There is no need for this bill and no need for an Article 5 convention. Such a convention would be an extreme and relatively untested way to amend the constitution. Elections are the best way for Texans to address concerns about the president and Congress.

SUBJECT: Creating a sales tax holiday for LED lightbulbs

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Parker, C. Turner, Wray

0 nays

1 absent — Springer

WITNESSES: For — (*Registered, but did not testify:* Jeff Bonham, CenterPoint Energy, Inc.; Cyrus Reed, Lone Star Chapter Sierra Club; Ned Munoz, Texas Association of Builders; Jim Sheer, Texas Retailers Association; Brian Yarbrough, the Home Depot)

Against — None

On — Brad Reynolds, Texas Comptroller of Public Accounts;
(*Registered, but did not testify:* Eric Stearns, Texas Comptroller of Public Accounts)

BACKGROUND: Current law provides for a sales tax holiday for a variety of energy-efficient products, including incandescent and fluorescent lightbulbs. LED lightbulbs, not currently included in the list of energy-efficient products for which there is a sales tax holiday, typically use between 25 percent to 80 percent less energy than traditional lightbulbs and can last up to 25 times longer, according to the U.S. Department of Energy.

DIGEST: HB 1625 would add LED lightbulbs to a list of energy-efficient products that are exempted from sales taxes on Memorial Day weekend.

This bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

NOTES: The Legislative Budget Board's fiscal note indicates that this bill would have a negative net impact of \$1.4 million to general revenue in fiscal

2016-17.

SUBJECT: Creating a safety reimbursement program for certain employers

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 5 ayes — Oliveira, Collier, Fletcher, Romero, Villalba
2 nays — Simmons, Rinaldi

WITNESSES: For — (*Registered, but did not testify*: Lee Ann Alexander, Liberty Mutual Insurance; Paul Martin, National Association of Mutual Insurance Companies; Annie Spilman, National Federation of Independent Business/TX; Joe Woods, Property Casualty Insurers Association of America; Leonard Aguilar, Southwest Pipe Trades Association; Rick Levy, Texas AFL-CIO; Scott Norman, Texas Association of Builders; Cathy Dewitt, Texas Association of Business; Pam Beachley, Texas Cotton Ginners' Trust; Jo Betsy Norton, Texas Mutual Ins. Co.; Fabiola Flores, Texas Worker Advocates; Maxie Gallardo, Workers Defense Project)

Against — None

On — (*Registered, but did not testify*: Amy Lee, Texas Department of Insurance, Division of Workers' Compensation)

DIGEST: CSHB 2466 would create a workers' compensation safety reimbursement program. The program would apply to "eligible employers." An eligible employer would be defined as an employer, other than the state of Texas or a political subdivision of Texas, that had workers' compensation insurance coverage and that employed between two and 50 employees during the prior calendar year, or was a type of employer designated as eligible by the commissioner of workers' compensation.

The program would reimburse eligible employers for expenses incurred to facilitate safe and healthy workplaces for their employees. An eligible employer could receive no more than \$5,000 per year in reimbursement for allowable expenses, including physical modifications to the worksite, safety equipment, and safety training for employees.

CSHB 2466 would require the commissioner to fund the program with administrative penalties collected by the workers' compensation division Texas Department of Insurance. The commissioner would be required to deposit annually the first \$100,000 of those penalties into the general revenue fund to the credit of the Texas Department of Insurance operating account. Money for the program could be spent by the division, on appropriation by the Legislature, only for the purposes of implementing the program, and only to the extent that funds were available.

The bill would require the commissioner to establish by rule an optional preauthorization plan for eligible employers to submit proposals to the division that described the intended workplace modifications and other changes. If the division approved a proposal submitted for preauthorization, the division would guarantee reimbursement of the expenses incurred by the employer in implementing the proposed modifications or changes. The division would not be required to reimburse the employer for modifications or changes that materially differed from the employer's proposal.

CSHB 2466 would require the commissioner to report to the governor, the lieutenant governor, the speaker of the House, and members of the Legislature by December 1, 2018, on the implementation of the program, the results of the program, and recommendations regarding the continuation of the program, including any necessary changes to enhance the effectiveness of the program.

As soon as practicable after the effective date of the bill, the commissioner would be required to adopt rules establishing the program, including requirements for eligible employer applications and appropriate use of allocated funds. Insurance companies would be required to notify employers about the program as provided by the commissioner's rules. The division would be required to implement the program beginning January 1, 2016.

CSHB 2466 would take effect September 1, 2015, and would not apply to costs incurred by an eligible employer before January 1, 2016.

**SUPPORTERS
SAY:**

CSHB 2466 would help small employers and certain high-risk industries provide a safer workplace for their employees, which would lower work-related injuries and deaths. Small businesses often cannot afford changes to the workplace, even if those changes would increase employee safety. The bill would give businesses more incentive to make their workplaces safer because they could receive reimbursement for certain costs to implement small but important changes.

While injured employees might be able to sue their employers for work-related injuries, lawsuits can be expensive and time-consuming. The goal of the bill is to prevent employees from being injured in the first place.

**OPPONENTS
SAY:**

CSHB 2466 would be unnecessary because businesses already have an incentive to maintain safe workplaces in the form of potential lawsuits brought by employees for work-related injuries. The bill would unnecessarily regulate the workplaces of private businesses. Workplace safety is not really within the government's role to regulate and has been improving consistently on its own for years.

NOTES:

The Legislative Budget Board's fiscal note estimates that the bill would have a negative net impact to general revenue of \$200,000 in fiscal 2016-17.

SUBJECT: Procedure for early voter voting notation on registered voters lists.

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — Laubenberg, Goldman, Fallon, Israel, Phelan, Schofield
0 nays
1 absent — Reynolds

WITNESSES: For — Ed Johnson, Harris County Clerk Office; Alan Vera, Harris County Republican Party; Glen Maxey, Texas Democratic Party; Bill Fairbrother, Texas Republican County Chairman Association, Legislative Chair;
(*Registered, but did not testify*: Seth Mitchell, Bexar County Commissioners Court; Dana DeBeauvoir, County Clerks Legislative Committee; Gaudette; Kathy Haigler; Kelly Horsley; Colleen Vera)

Against — None

On — Keith Ingram, Secretary of State, Elections Division; (*Registered, but did not testify*: Ashley Fischer, Secretary of State)

BACKGROUND: Election Code, sec. 87.122 requires an early voting clerk to prepare a list containing certain information on each person registered to vote in the election precinct who votes early by mail or in person. Sec. 87.122(c) requires the clerk to deliver this precinct early voting list to the presiding judge of the election precinct no later than the day before election day.

Sec. 62.014(b) requires an election officer to enter “early voting voter” beside the name of each person on the registered voter list whose name also appears on the precinct early voting list.

If the procedures in sec. 62.014(b) are not carried out timely and properly, it could create an opportunity for someone who voted early to also vote a second time on election day.

DIGEST: CSHB 2366 would amend Election Code, sec. 87.122(c) to require the

early voting clerk to enter “early voting voter” beside the name of each person on the precinct list of registered voters whose name appears on the list of early voting voters. The early voting clerk would deliver the precinct list to the presiding judge no later than the day before election day.

The bill also would repeal Election Code, sec. 62.104(b) to no longer require the election officer to enter “early voting voter” beside each name on the registered voter list.

This bill would take effect September 1, 2015.

SUBJECT: Expanding grounds for terminating a volunteer deputy registrar

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — Laubenberg, Goldman, Fallon, Phelan, Reynolds, Schofield
0 nays
1 absent — Israel

WITNESSES: For — Jacquelyn Callanen, Bexar County Elections Administrator, Texas Association of Elections Administrators; Linda Bridge, Tax Assessor Collector Association; John Oldham, Texas Association of Elections Administrators; (*Registered, but did not testify*: Willie O'Brien, Mountain View College Student Government Association; Ro'Vin Garrett, Tax Collectors Association of Texas; Nanette Forbes, Texas Association of Counties; Erin Anderson, True the Vote; John Hobson; Karen Hobson; Carol Kitson)

Against — Glen Maxey, Texas Democratic Party; William Fairbrother, Texas Republican County Chairmen's Association; Zenobia Joseph; (*Registered, but did not testify*: Rachael Crider, Galveston County Tax Office; Sheryl Swift, Galveston County Tax Office; Alan Vera, Harris County Republican Party Ballot Security Committee; Bruce Elfant)

On — (*Registered, but did not testify*: Ashley Fischer, Office of the Secretary of State; Keith Ingram, Texas Secretary of State, Elections Division)

BACKGROUND: Under Election Code, ch. 13, volunteer deputy registrars are appointed by county registrars to encourage voter registration. Volunteer deputy registrars may distribute voter registration application forms throughout the county and receive registration applications submitted to the deputy in person.

Current law allows a county registrar to terminate a volunteer deputy registrar appointment if the deputy failed to adequately review a

registration application.

DIGEST: CSHB 621 would allow a county registrar to terminate the appointment of a volunteer deputy registrar on a determination by the registrar that the volunteer deputy intentionally destroyed or physically altered a registration application or engaged in any other activity that conflicted with the responsibilities of a volunteer deputy registrar. The bill also would require that a certificate of appointment for a volunteer deputy registrar state that the volunteer deputy's appointment could be terminated for these additional reasons.

This bill would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 621 is necessary to protect the process of voter registration from volunteer deputy registrars who do not fulfill their responsibilities. The increased authority for county registrars to terminate deputies would ensure that volunteer deputy registrars who falsified registrations, physically altered or destroyed applications, turned in applications late, or misrepresented their positions were not allowed to continue to damage the voter registration process.

OPPONENTS SAY: CSHB 621 is vague and overly broad and could be used by registrars to disqualify volunteer deputy registrars on political grounds. If registrars were given broad discretion to terminate volunteer deputy registrars, they could inhibit voter registration. Any expansion of the ability of registrars to terminate volunteer deputy registrars should state the specific conduct that could lead to termination.

Current law already allows registrars to terminate volunteer deputy registrars who do not adequately review a registration application or fail to turn in an application. That provision is sufficient to cover most of the problems that arise from volunteer deputy registrars.

SUBJECT: Setting training, education standards for TDCJ correctional officers

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Murphy, J. White, Allen, Keough, Krause, Schubert
1 nay — Tinderholt

WITNESSES: For — Lance Lowry, Texas Correctional Employees-Huntsville (AFSCME); Cate Graziani, Mental Health America of Texas; Douglas Smith, Texas Criminal Justice Coalition; Jennifer Erschabek, Texas Inmate Families Association (TIFA); Keith Rodney; Veronica Williams; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Katharine Ligon, Center for Public Policy Priorities; Kymberlie Quong Charles, Grassroots Leadership; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Patricia Cummings, Texas Criminal Defense Lawyers Association; Sarah Pahl, Texas Criminal Justice Coalition; Marilyn Hartman)

Against — None

On — Bill Stephens, Texas Department of Criminal Justice; (*Registered, but did not testify*: John Helenberg, Texas Commission on Law Enforcement)

DIGEST: CSHB 1855 would amend the Government Code to add provisions requiring additional training, continuing education, and demonstration of weapons proficiency for Texas Department of Criminal Justice (TDCJ) correctional officers.

Required training. The bill would require each TDCJ correctional officer to complete no less than 280 hours of training during the officer's first 24 months of service. This would include 140 hours of on-the-job training and mental health crisis intervention training.

The bill would require TDCJ, in consultation with the Texas Commission on Law Enforcement, to develop mental health crisis intervention training

to become part of each officer's required 280 hours of training.

The bill would require TDCJ to indicate a correctional officer's completion of the required training in the officer's personnel file. The officer would not be required to complete the training if the officer's file stated that the officer completed training during a previous period of employment as a correctional officer during the preceding 36 months.

TDCJ would be allowed to suspend or otherwise discipline a correctional officer who failed to comply with the training requirements.

Continuing education. The bill would require each TDCJ correctional officer to complete at least 80 hours of continuing education every 24 months. The department would be allowed to suspend or otherwise discipline an officer who failed to comply with the continuing education requirement. As part of this continuing education program, an officer would be required to cover the core requirements designated by the department. TDCJ would be required to develop specialized training for officers that may be credited toward continuing education requirements.

The bill also would require TDCJ to give temporary exceptions for an officer who could not complete the 280 hours of training required or the required continuing education because of:

- a medical emergency involving the officer or a member of their family;
- the officer's active military service; or
- the officer's unit or facility being unable to provide the training in a timely manner due to severe weather or a catastrophic event.

If a temporary exception was created under these sections, training or continuing education requirements would be required to be met as soon as practicable.

Weapons proficiency. The bill would require TDCJ to designate at least one firearms proficiency officer and require each TDCJ correctional officer to demonstrate weapons proficiency to a firearms proficiency officer at least once a year. TDCJ would be required to maintain records

of the weapons proficiency of the correctional officers. The bill would require TDCJ to establish the criteria for weapons proficiency.

The bill would require TDCJ to adopt the rules required for implementation of the training, continuing education, and weapons proficiency regulations by January 1, 2016.

The training requirement would apply only to a correctional officer hired by TDCJ on or after September 1, 2015, and the continuing education and weapons proficiency requirements would apply only to a correctional officer employed on or after that date.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1855 would ensure that correctional officers were properly trained to safely and effectively deal with individuals who had mental health disorders. A large portion of Texas offenders have a diagnosed mental health illness, while the number of “major use of force” incidents has grown as well. The training would include a focus on recognizing the signs and symptoms of mental illness and learning de-escalation techniques. The bill would improve officer training to cope with these prisoners without having to resort to unnecessary force, which would improve security for both the officers and the inmates.

The bill would improve the substandard training program that currently is required for correctional officers. In Texas, correctional officers receive 200 pre-service training hours, compared to the national average of 273 required hours. The bill’s increased training requirement would create a safer environment and ensure less use of force by teaching corrections officers how to de-escalate a situation without resorting to force.

Although current training of correctional officers includes weapons proficiency, the bill would codify the requirement to set a uniform training standard.

There would be no additional cost to implement this necessary training, because both the Texas Department of Criminal Justice (TDCJ) and the Texas Commission on Law Enforcement already have prepared training

curriculums that the agencies would combine and improve upon. The Commission on Law Enforcement training curriculum already includes some training on dealing with individuals with mental illnesses.

**OPPONENTS
SAY:**

CSHB 1855 would mandate specific training requirements in statute that could restrict TDCJ from providing more efficient training as deemed necessary by the department. TDCJ should be free to make determinations about what training is required for correctional officers on an as-needed basis. This bill could reduce TDCJ's flexibility to address issues requiring training as they came up.

SUBJECT: Giving county clerks authority to require photo ID for property documents

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — Coleman, Farias, Burrows, Romero, Spitzer, Tinderholt, Wu

1 nay — Schubert

1 absent — Stickland

WITNESSES: For — Ed Johnson, Harris County Clerk Office; (*Registered, but did not testify*: Donna Warndof, Harris County; Justin Wood, Harris County District Attorney's Office)

Against — None

DIGEST: CSHB 1681 would add Local Government Code, ch. 191.010 to grant county clerks the authority to require photo identification from individuals filing real property documents in person.

The clerk would determine the appropriate forms of photo identification to verify the individual's identity and could copy or record information from the photo identification. A clerk could not charge a person a fee to copy or record the information. Information copied or recorded from the photo identification would be confidential.

The bill would not make a document filed with the county clerk invalid solely because the clerk did not copy or record information from a photo identification.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: CSHB 1681 would help safeguard Texans against fraudulent deed filings. County clerks currently have no authority to require photo identification when a person is filing a deed, which prevents them from quickly

verifying a filer's identity. This lack of information also makes it difficult for law enforcement to identify people who are using fraudulent documents. The bill would ensure that anyone filing real property documents could be asked for photo identification, which would be filed along with the document and could assist any subsequent investigation.

This bill would not make third-party filers, such as attorneys or title companies, more vulnerable to investigation due to filing a fraudulent deed. It would merely allow a clerk to record identity information, which could be useful if questions arose about the filer's identity.

**OPPONENTS
SAY:**

CSHB 1681 could place a burden on third parties filing real property documents on behalf of another party. Attorneys and their associates often file documents for clients. If the document provided by the client was fraudulent, the attorney or their associates could be subjected to an investigation by law enforcement when they were only following the wishes of their clients.

SUBJECT: Establishing palliative care advisory council, education program

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Christi Ming and Lillian Villarreal, American Cancer Society Cancer Action Network; John Voliva, PCCA; Craig Hurwitz, Seton Hospital System; Lauren Dobbs, Texas Academy of Physician Assistants (TAPA); Erin Perez, Texas Nurse Practitioners; Larry Driver; Barbara Jones; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Kaitlyn Murphy, American Heart Association; Jim Arnold, American Lung Association; Vicki Perkins, CHRISTUS Health; Kathy Hutto, Coalition for Nurses in Advanced Practice; Chris Masey, Coalition of Texans with Disabilities; David Lofye, LIVESTRONG Foundation; Freddy Warner, Memorial Hermann Health System; Marina Hench, Texas Association for Home Care and Hospice; Rebekah Schroeder, Texas Children's Hospital; Irene Gilliland, Texas Clinical Nurse Specialist Association; Joel Ballew, Texas Health Resources; Jennifer Banda, Texas Hospital Association; Troy Alexander and Dan Finch, Texas Medical Association; Marsha Jones, Texas Oncology; Krista Crockett, Texas Pain Society; Rene Garza, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council)

Against — (*Registered, but did not testify*: John Seago, Texas Right to Life)

DIGEST: CSHB 1874 would create a Palliative Care Interdisciplinary Advisory Council to assess the availability of patient-centered and family focused palliative care. The bill also would require the Health and Human Services Commission, in coordination with the advisory council, to establish a statewide palliative care information and education program.

Members. The advisory council would be composed of members

appointed by the Health and Human Services executive commissioner and would serve at the pleasure of the executive commissioner. The advisory council would include:

- at least five physicians, including two who were board certified in hospice and palliative care and one who was board certified in pain management;
- at least two advanced practice registered nurse members who were board certified in hospice and palliative care;
- five health care professional members, including nurses, social workers, pharmacists, and spiritual care professionals, with experience providing palliative care to all ages and in a variety of settings and who had expertise in interdisciplinary palliative care;
- at least three members who had experience as advocates for patients and the patients' family caregivers and who were independent of a hospital or other health care facility, including at least one member who was a representative of an established patient advocacy organization; and
- ex officio representatives of the commission or another state agency as the executive commissioner determined appropriate.

Advisory council members would serve four-year terms. If a vacancy opened up, a person would be appointed to fill the vacancy for the unexpired term. Members would elect a chair and vice chair, as well as establish their duties. The executive commissioner would establish a time and place for meetings that would occur at least twice a year. Members could not receive compensation for their service on the council, but could be reimbursed for travel expenses.

Information and education program. The commission, in consultation with the advisory council, would establish a statewide palliative care consumer and professional information and education program to ensure that comprehensive and accurate information and education about palliative care was available to the public, health care providers, and health care facilities.

The commission would make available on its website information and resources regarding palliative care, including:

- links to external resources regarding palliative care;
- continuing education opportunities for health care providers;
- information about palliative care delivery in the home, primary, secondary, and tertiary environments; and
- consumer educational materials regarding palliative care, including hospice care.

The council would consult with and advise the commission on the establishment, maintenance, operation, and outcome evaluation of the palliative care information and education program.

On or before October 1 of each even-numbered year, the council would submit a biennial report to the standing committees of the Senate and the House of Representatives with primary jurisdiction over health matters. The report would include the council's assessment of the availability of palliative care in Texas for patients in the early stages of a serious disease and the council's analysis of barriers to greater access to palliative care.

Notwithstanding any other law, the advisory council and the information and education program established by the bill would not create a cause of action or create a standard of care, obligation, or duty providing a basis for a cause of action.

The advisory council would be subject to the Texas Sunset Act and, unless continued, would be abolished September 1, 2019.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1874 would establish an advisory council to evaluate Texans' access to palliative care, which can be effective in relieving the stress, symptoms, and pain associated with chronic illnesses. The council and the palliative care information and education program it would help establish could ensure information about this important form of health care was available to the public and health care facilities. This could break down the barriers to palliative care access for Texans and improve outcomes and

quality of life for patients and their families.

The bill could help bring the benefits of palliative care to Texans living with life-threatening disease, which would promote the delivery of quality care and potentially result cost savings. A 2010 study of patients with lung cancer published in the New England Journal of Medicine found that patients assigned to early palliative care had a better quality of life, fewer symptoms of depression, and a longer median survival rate than patients receiving standard care. Furthermore, early introduction of palliative care can lead to less aggressive end-of-life care, which helps reduce health care costs but in no way denies a patient who wants access to curative treatment. The timely introduction of palliative care may serve to mitigate unnecessary and burdensome financial, personal, and societal costs.

The bill would ensure that three members of the advisory council had experience as advocates for patients and patients' families and were independent of any hospital or health care facility. One of these three would have to represent an established patient advocacy organization.

Furthermore, the goal of HB 1874 is to increase awareness. It would have no direct implication for Texas patients other than to bring other care options to patients and their families and would not discourage them from seeking life-saving treatment.

**OPPONENTS
SAY:**

CSHB 1874 may not adequately protect the rights of patients. As written, the bill would require the council to have only one patient advocate representing an established patient advocacy organization. This would not give sufficient attention to the rights of patients and informed consent.

The bill should take into account other patient needs, such as the involvement of primary care physicians in palliative care decisions. The delivery of palliative care may involve increasing pain medications or result in the removal of a ventilator, which would end the patient's life. It is crucial that the patient and the patient's family have access to the doctor most familiar with their situation to help in navigating these difficult decisions. A primary care physician typically is the provider most familiar with the needs and concerns of the patient and the patient's family.

SUBJECT: Creating a tax exemption for certain digital audio broadcasting equipment

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — D. Bonnen, Bohac, Button, Darby, Martinez Fischer, Murphy,
Springer, C. Turner, Wray

0 nays

2 absent — Y. Davis, Parker

WITNESSES: For — Ben Downs, Texas Association of Broadcasters; Kevin Anderson;
(*Registered, but did not testify*: Oscar Rodriguez, Texas Association of
Broadcasters)

Against — None

BACKGROUND: Until 2010, the comptroller granted sales tax exemptions for digital
transmission equipment purchased by radio stations. However, a decision
from the State Office of Administrative Hearings found that this
exemption had no basis in statute and originally had been granted for
consistency after digital television equipment was exempted in 2001.

Many radio stations had already purchased digital transmission equipment
before the 2010 decision and received the sales tax exemption. Those that
did not purchase the equipment before the decision would not receive the
exemption if they purchased the equipment today.

Digital broadcasting equipment serves a variety of public purposes,
including emergency alerts. Digital radio is a method of mass
communication in a disaster scenario and it is a significant improvement
over AM radio reception.

DIGEST: CSHB 2507 would exempt from the sales tax equipment necessary to
operate a digital audio broadcast station (such as a transmitter) if the
purchaser was a licensee of an AM or FM radio station.

This bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

NOTES:

The Legislative Budget Board's fiscal note indicates that the bill would have a negative impact of \$140,000 on general revenue related funds through fiscal 2016-17.